

REMARKS

This paper responds to the Office Action mailed on August 10, 2005.

No claims are amended, canceled, or added; as a result, claims 9-32 remain pending in this application.

Information Disclosure Statement

Applicant submitted an Information Disclosure Statement and a 1449 Form on January 14, 2004. Applicant respectfully requests that an initialed copy of the 1449 Form be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

§103 Rejection of the Claims

Claims 15 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Akram et al. (Patent No. 6,548,392) in view of Miyata et al. (Patent No. 5,885,891).

Applicant respectfully traverses for the following reasons.

Applicant submits that Akram et al., U.S. Patent No. U.S. 6,548,392, is not prior art with respect to claims 15 and 16 of the present application based on common ownership.

The present application is a Divisional application of U.S. Application No. 09/253,611 (now U.S. Patent No. 6,844,253) filed February 19, 1999. Thus, the present application has an effective filing date of February 19, 1999.

U.S. Patent No. 6,548,392 issued on April 15, 2003. Since U.S. Patent No. 6,548,392 issued after the effective filing date (February 19, 1999) of the present application, U.S. Patent No. 6,548,392 may be asserted as a reference under §102(e). A reference asserted under §102(e) that was commonly owned with an application at the time the invention was made cannot preclude patentability of the claims under 35 U.S.C. § 103, where the application has been filed on or after November 29, 1999. 35 U.S.C. § 103(c); 1233 OG 55 (April 11, 2000).

The present application was filed on January 14, 2004, which is after November 29, 1999. The present application was assigned to Micron Technology Inc. U.S. Patent No. 6,548,392 was also assigned to Micron Technology Inc. Each was under a duty to assign at the

time of the present invention. Thus, U.S. Patent No. 6,548,392 is commonly owned with the present application and is not prior art with respect to claims 15 and 16 of the present application. Since U.S. Patent No. 6,548,392 is not prior art with respect to claims 15 and 16, rejecting claims 15 and 16 based on the proposed combination of U.S. Patent No. 6,548,392 and Miyata et al. is moot. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection, and allowance of claims 15 and 16.

Allowable Subject Matter

Applicant acknowledges the allowance of claims 9-14 and 17-32.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6969 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

PAUL A. FARRAR

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6969

Date November 10, 2005 By 

Viet V. Tong
Reg. No. 45,416

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10 day of November, 2005.

KATE GANNON
Name

Kate G
Signature